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|  | Notice of Request for Proposal | |  |
| | SOLICITATION NO.: YH07-0023 | 1 | |
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| | | | 701 E. Jefferson St., MD 5700 Phoenix, Arizona 85034 |

Solicitation Contact Person:

Jamey Schultz
Contracts and Purchasing Section
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Issue Date: September 13, 2006

LOCATION: **ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION (AHCCCS)**
Contracts and Purchasing Section (First Floor)
701 E. Jefferson, MD5700
Phoenix, Arizona 85034

DESCRIPTION: **MANAGED BEHAVIORAL HEALTH AND EMPLOYEE ASSISTANCE PROGRAM (EAP)**
SERVICES FOR HEALTHCARE GROUP OF ARIZONA

PROPOSAL DUE DATE: October 11, 2006 AT 3:00 P.M. MST

Pre-Proposal Conference: A Pre-Proposal Conference has not been scheduled.

**QUESTIONS CONCERNING THIS SOLICITATION SHALL BE
SUBMITTED TO THE SOLICITATION CONTACT PERSON NAMED
ABOVE, IN WRITING EITHER VIA TELEFAX OR E-MAIL BY
SEPTEMBER 29, 2006, 5:00 P.M., AT THE LATEST.**

In accordance with A.R.S. § 41-2534, which is incorporated herein by reference, competitive sealed proposals will be received at the above specified location, until the time and date cited. Proposals received by the correct time and date will be opened and the name of each offeror will be publicly read.



Proposals must be in the actual possession of AHCCCS on or prior to the time and date and at the location indicated above.

Late proposals shall not be considered.



Proposals must be submitted in a sealed envelope or package with the Solicitation Number and the offeror's name and address clearly indicated on the envelope or package. All proposals must be completed in ink or typewritten. Additional instructions for preparing a proposal are included in this solicitation document.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the appropriate Procurement Agency. Requests should be made as early as possible to allow time to arrange the accommodation. A person requiring special accommodations may contact the solicitation contact person responsible for this procurement as identified above.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

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OFFER

The undersigned Offeror hereby agrees to provide all services in accordance with the terms and requirements stated herein, including all exhibits, amendments, and best-and-final offers (if any). Signature also acknowledges receipt of all pages indicated in the Table of Contents.

Arizona Transaction (Sales) Privilege Tax License No.:

For clarification of this offer, contact:

Federal Employer Identification No.:

Name: _____

Phone: _____

E-Mail Address: _____

Fax: _____

Company Name

Signature of Person Authorized to Sign Offer

Address

Printed Name

City State Zip

Title

CERTIFICATION

By signature in the Offer section above, the bidder certifies:

1. The submission of the offer did not involve collusion or other anti-competitive practices.
2. The bidder shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 99-4 or A.R.S. §§ 41-1461 through 1465.
3. The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. **The bidder certifies that the above referenced organization ___ is/___ is not a small business with less than 100 employees or has gross revenues of \$4 million or less.**

ACCEPTANCE OF OFFER (to be completed by AHCCCS)



Your offer, including all exhibits, amendments and best-and-final offer (if any), contained herein, is accepted.

The Contractor is now bound to provide all services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by AHCCCS.

This contract shall henceforth be referred to as Contract No. _____.

Awarded this _____ day of _____ 20____

Michael Veit, as AHCCCS Contracting Officer and not personally

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1. **INTRODUCTION AND BACKGROUND**

Healthcare Group of Arizona (HCGA) was created by the State of Arizona Legislature in 1985 to provide health insurance coverage to uninsured small business employers (1 to 50 employees), sole proprietors, and political subdivisions of the State of Arizona (see A.R.S. 36-2912). It is administered by the State's Arizona Health Care Cost Containment System (AHCCCS). Healthcare Group is a premium-based health plan that is managed as a separate product line within AHCCCS. HCGA markets its benefit plans, processes enrollment of the qualified employer groups and their employees and dependents, and administers the billing for all enrolled employer groups. Behavioral health services are currently included in HCGA's Preferred Provider Organization (PPO) plans, with HCGA being at risk for the cost of services provided through a leased provider network. Behavioral health services are not currently offered to members enrolled in HCGA's Health Maintenance Organization (HMO) health plans. Since HCGA is governed by Title 36 of the Arizona Administrative Code instead of Title 20, it has not been required to include behavioral health services in its benefit plans.

HCGA contracts with health plans under A.R.S. 36-2906 and 36-2912 to organize coverage for and manage medical services for employees and eligible dependents covered by prepaid health benefits purchased from HCGA. HCGA's HMO medical services are currently provided through three capitated managed care organizations: Care 1st Health Plan, Mercy Healthcare Group, and University Physicians Healthcare Group. Care 1st provides services in Maricopa County; Mercy Healthcare Group provides services in Coconino, Gila, Graham, Greenlee, Maricopa, Pima, Pinal, Santa Cruz, Yavapai, and Yuma Counties; and University Physicians Healthcare Group provides services in Cochise, Graham, Greenlee, Maricopa, Pima, Pinal, and Santa Cruz Counties. The services the contracted Managed Care Organizations (MCO's) perform include medical management processing, claims adjudication, prior authorization, case management, and utilization review.



In order to be eligible for HCGA enrollment, small business employer groups must have conducted business within Arizona for at least 60 days and cannot have had health insurance coverage under an accountable health plan for the preceding 180 days. Employer Groups with five or fewer eligible employees must have 100 percent of their eligible employees enrolled in HCGA, and Employer Groups with six or more full time eligible employees must have at least 80 percent of their employees enrolled with HCGA. While small businesses must have 50 or fewer employees in order to enroll with HCGA, there are no size limitations for political subdivisions.

HCGA's total membership as of August 1, 2006 was 22,353. The membership grew nearly 50% last year. With the implementation of several initiatives, HCGA expects to exceed 32,000 members by July 2007. HCGA's website address is www.hcgaz.com.

2. **PURPOSE**

The purpose of this RFP is to solicit proposals from prospective Contractors, resulting in a full-risk prepaid capitated contract with a Contractor who agrees to provide covered mental health and substance abuse services for HCGA members under the terms and conditions of this Agreement.

HCGA will select a Contractor to provide at-risk managed behavioral health services to all its PPO members statewide. HCGA will also offer to include the Contractor's managed behavioral health services in customized HMO benefit plans for political subdivisions and employer groups with more than 20 members. Political subdivisions, such as cities and school districts, can be of any size to enroll with HCGA. As of August 1, 2006, HCGA had 1,694 members enrolled in its PPO benefit plans. The PPO benefit plans are self-insured, using a

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leased provider network. HCGA's PPO plans first became available to members in September 2005. Membership has grown steadily since, and HCGA projects to have 2,900 members enrolled in a PPO plan by January 1, 2007. HCGA does not currently have any enrolled political subdivisions with more than 50 employees, but it expects to add several political subdivision clients in 2007 with the addition of behavioral health services.

HCGA's most comprehensive HMO benefit plan, Classic Lifestyles, had 12,386 members effective August 1, 2006. HCGA may choose to add the selected Contractor's behavioral health services to the Classic Lifestyles HMO benefit plan for all enrolled members at a later date. HCGA also currently offers two limited HMO plans, Secure Lifestyles and Active Lifestyles. HCGA does not anticipate including behavioral health services with the Secure Lifestyles and Active Lifestyles benefit plans in 2007. If behavioral health services are added to political subdivision benefit plan or an HMO benefit plan, all members within the benefit plan will be enrolled with the behavioral health benefits.



HCGA may also decide to provide a 3-visit EAP benefit plan to its members at a later date. Offerors interested in providing at-risk managed behavioral health services are encouraged to separately offer a 3-visit EAP benefit plan that could be used in conjunction with the managed behavioral health services or as a stand-alone benefit to other groups of HCGA members. HCGA will not select a Contractor which offers only an EAP benefit proposal.

3. **GENERAL REQUIREMENTS**



- 3.1 The Contractor shall provide all required services for HCGA in accordance with the provisions and requirements of this RFP.
- 3.2 The Contractor shall provide services to all eligible employees and dependents as determined by HCGA.
- 3.3 The Contractor shall be properly licensed, certified, and credentialed to operate in Arizona.
- 3.4 The Contractor shall maintain compliance with all Arizona Department of Insurance rules (A.A.C. Title 20), Arizona Department of Health Services rules (A.A.C., Title 9), and the Arizona Revised Statutes, which may have applicability, but which have not been specifically identified within this RFP. Contractor shall supply, upon request from HCGA, verification of compliance with any law or rule.
- 3.5 The Contractor shall propose an at-risk behavioral health benefit plan(s). At least one plan must include the covered services outlined below:
 - 3.5.1 20 outpatient visits combined for mental health and substance abuse per contract year with a \$25 per visit co-payment.
 - 3.5.2 30 inpatient days combined for mental health and substance abuse per contract year with a 10% co-payment.
 - 3.5.3 Days in partial hospitalization programs, residential treatment, or intensive outpatient programs can be substituted for inpatient days on a one-for-one basis with a 10% co-payment.
 - 3.5.4 Contractor's exclusions and limitations should be included with the proposal(s).
- 3.6 Offerors submitting proposals for managed behavioral health services may also offer a 3-visit EAP benefit plan that HCGA could choose to use in conjunction with the managed behavioral health services or as a stand-alone benefit for HCGA's HMO benefit plans.

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- 3.7 The Contractor must be willing to work with HCGA to customize the benefits for political subdivisions. When this occurs, HCGA and the Contractor will mutually agree on revised capitation fees for the Contractor that factor in the cost of the revised benefits. The revised capitation fees would become part of the Contract via an amendment.
- 3.8 The Contractor must be able to manage the behavioral health benefits based on an employer group's contract year. An employer group's contract year is based on the month the employer group first enrolls with HCGA.
- 3.9 The Contractor must be willing to work collaboratively with HCGA and HCGA's contracted medical plans to serve members who require both medical and behavioral health services.
- 3.10 The Contractor will be responsible for the delivery and payment for all required benefits and services. When the Contractor arranges for services that are provided by a noncontracted provider due to the nonavailability of contracted providers, the Member's financial liability is limited to the amount the member would have had to pay had the service been rendered by a Contractor provider. That is, the cost of the service beyond the usual plan member liability shall be the Contractor's responsibility. Balance billing is prohibited.
- 3.11 Contractor shall provide referrals to providers who will accept new HCGA members.
- 3.12 Contractor shall use its medical necessity criteria to determine if the member meets criteria for covered services.
- 3.13 Contractor will notify the Member or the parent/custodian of a child or adolescent in writing any time the Contractor denies a request for authorization of services. The written notification must include specific reasons for the denial and information for the Member describing the Member's right to file an appeal or grievance and how to file an appeal or grievance. Contractor shall receive HCGA's written approval of the letter templates prior to their use.
- 3.14 In order to ensure effective coordination of care, Contractor's providers should request patients to provide proper consent and authorization to release information to HCGA health plans and their primary care providers. If authorized, behavioral health providers must provide the member's diagnosis and prescribed medications to the member's PCP if the member was referred by the PCP or is diagnosed with a serious mental illness.
- 3.15 The Contractor shall work with HCGA Members' current behavioral health providers to provide the appropriate continuity of care and transition to the Contractor's provider network.
- 3.16 Contractor will provide language translation services as needed at no additional cost to the members or HCGA.
- 3.17 Claims and Encounter Processing: The Contractor shall receive and adjudicate claims from providers for behavioral health services provided under this Agreement. Ninety percent of all clean claims shall be paid within 30 days of receipt and 99 percent of all claims shall be paid within 60 days of receipt. The claims system shall have the capability to verify eligibility; verify eligible services; detect fraud; track information in various categories and formats; and determine benefits payable and issue payment. The Contractor shall use HCGA's Coordination of Benefits criteria.

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- 3.18 Customer Service: Contractor's customer service activities will include, but are not limited to:
- 3.18.1 Customer service representatives available between 8:30 a.m. and 5:30 p.m. Mountain Standard Time, Monday through Friday, except for holidays, for routine assistance (provider referrals, benefit information, etc.)
 - 3.18.2 Single front-end toll-free 800 telephone number with touch-tone routing (if necessary).
 - 3.18.3 Clinical staff available 24 hours per day/seven days per week for emergency/crisis calls.
 - 3.18.4 Availability of customer service representatives that speak Spanish fluently.
 - 3.18.5 At least 95 percent of written inquiries that the Contractor receives either from HCGA or members shall be answered within 5 business days. The response time is calculated from the date of receipt by the Contractor to the date of final resolution. All phone inquiries shall be answered by the next business day.
 - 3.18.6 The inquiry telephone line for members shall have no more than 5 percent dropped calls.
 - 3.18.7 The inquiry telephone system shall maintain sufficient staffing to respond to telephone calls by not allowing an average in excess of 30 seconds on hold.
- 3.19 Fulfillment Support: The Contractor may be asked to provide to HCGA, at Contractor's expense, material fulfillment support including but not limited to provider directories and benefit summaries.
- 3.20 The Contractor shall maintain identical eligibility requirements and continued coverage provisions as the HCGA. HCGA shall be the final authority on Employer and Member eligibility.
- 3.21 The Contractor shall cover all benefits from the effective date of the contract so that no employee or dependent shall suffer a loss of coverage by virtue of a change in plan administrator(s) other than by a change in plan design (including any applicable co-payments, deductibles, annual and lifetime maximums, etc. already contributed by any one employee/retiree/dependent). No employee or dependent shall lose benefits because of administrator(s) or transition issues.
- 3.22 A pre-existing condition is a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was recommended or received during the six-month period immediately preceding the eligible employee's or eligible dependent's enrollment date. For purposes of determining a pre-existing condition and pre-existing condition waiting periods, enrollment date means the individual's effective date of coverage under the GSA, or, if earlier, the first day of the employee's eligibility waiting period. Treatment refers to services performed by a licensed health care provider not including pharmacists. A refill of a maintenance prescription without a face-to-face encounter with a licensed health care provider during the six-month period does not constitute a pre-existing condition.
- 3.23 Coverage for services related to a pre-existing condition or complications relating to the condition will not begin until 12 consecutive months or, in the case of a late enrollee, 18 months have elapsed from the member's enrollment date. The length of time may be shortened or eliminated by the amount of credit given for periods of prior Creditable Coverage. For prior coverage to apply toward this pre-existing condition waiting period, a member must not have any period of 63 days (excluding the employer group's eligibility waiting period or any other mandatory waiting period) before the date of application during which the eligible



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employee was not covered under any Creditable Coverage. Any coverage occurring prior to a break in coverage of 63 days or more will not be credited towards the preexisting waiting period

- 3.24 The Contractor agrees that when deemed necessary by HCGA, the Contractor shall provide additional resources, at no additional cost, should challenges or problems arise and the Contractor is unable to fulfill any requirements in the Scope of Work, Terms and Conditions, or any portion of required by the contract.
- 3.25 The Contractor shall provide customer communications materials for use during transition and implementation periods, as well as for future network or program changes.
- 3.26 All services provided shall be quality services, meeting or exceeding the industry standards. The Contractor shall immediately take corrective steps when services do not meet an industry standard, that is services that are inappropriate, undesirable, and/or poor quality as identified by HCGA. The resources needed to correct services that do not meet industry quality standards shall be provided at no additional cost to HCGA.
- 3.27 The Contractor will provide services reasonably required by HCGA but not otherwise identified within this contract, including but not limited to the review of draft plan materials, summary plan documents (SPDs), and cooperation with outside auditors and consultants.
- 3.28 The Contractor will have a website that will help members search for providers and obtain general plan information.
- 3.29 The Contractor shall agree to identify any discrepancies and notify HCGA in writing within 45 days after receipt of payment. The Contractor will fully cooperate with HCGA in an effort to resolve any discrepancies and come to a mutually agreed-upon process or resolution.
- 3.30 The Contractor will provide a mechanism for Members to request a particular provider to be added to their network.

4. SYSTEM AND REPORTING REQUIREMENTS

- 4.1 The Contractor shall submit the following reports within 45 days of the end of the reporting period:
 - 4.1.1 Monthly Comparative Utilization Reports broken down by each HCGA line of business/product
 - 4.1.2 Monthly Admission/Readmission Report
 - 4.1.3 Quarterly Telephone Abandonment Rate and Average Speed of Answer Reports
 - 4.1.4 Quarterly Grievance and Appeals Report
 - 4.1.5 Quarterly Claims Turnaround Report
- 4.2 HCGA may request reports during the contract period to meet its needs based on plan adjustment, legislative inquiries, or fund review. The Contractor shall provide such reports as soon as possible upon receipt of the request.
- 4.3 All routine reports identified shall be broken down by member, provider, dollar amount, or other parameters identified for report analysis.
- 4.4 Upon determination and identification of system problems, programming programs, or data transfer problems, the Contractor shall notify HCGA immediately upon identification of issue. The Contractor shall

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also make every effort necessary to correct such problem as soon as possible to minimize any negative impact to HCGA members.

5. **PROVIDER NETWORK REQUIREMENTS**

- 5.1 Contractor shall provide a statewide network of behavioral health providers, including strong representation for rural members. The Contractor's network will consist of an appropriate mix of the following type of licensed providers:
 - 5.1.1 Psychiatrists
 - 5.1.2 Clinical psychologists
 - 5.1.3 Psychiatric nurse practitioners
 - 5.1.4 Masters level social workers
 - 5.1.5 Marriage and family therapists
 - 5.1.6 Licensed professional counselors
 - 5.1.7 Licensed facilities
- 5.2 The Contractor shall meet the following appointment availability standards.
 - 5.2.1 Emergency care will be available within 24 hours.
 - 5.2.2 Urgent appointments will be available within 3 days.
 - 5.2.3 Routine general appointments will be available within 30 days.
- 5.3 The Contractor shall have internet provider directories accessible to members. Hard copy provider directories shall be provided to members who request them.
- 5.4 The Contractor shall provide HCGA with copies of Contractor's Provider Directory for distribution to prospective Employers.
- 5.5 The Contractor shall perform all initial credentialing, monitoring, and recredentialing of network providers. Network providers will be recredentialed at least every 36 months.
- 5.6 Contractor will provide HCGA an updated electronic list of network providers by the 15th day of each month.
- 5.7 The Contractor shall notify HCGA 30 days prior to effective date of any significant network changes that affect significant portions of the State membership. If network change is unanticipated, notification shall be sent within 15 days of the date of the change.
 - 5.7.1 The Contractor will notify current patients of providers terminating from the network within 15 days of the provider's termination date and provide HCGA with a summary of notifications made.

6. **DATA RECONCILIATION AND TRANSFER REQUIREMENTS**

- 6.1 The Contractor shall provide the HCGA a monthly file of all claims information, both paid and unpaid to any party on behalf of HCGA or as directed.
- 6.2 The specific data elements to be captured and transmitted shall be mutually agreed upon prior to the beginning of the plan year. Any data transmitted shall be through an FTP process.

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6.3 HCGA will provide monthly a full electronic file of all enrollments for reconciliation with the Contractor files.

6.4 The enrollment records shall be updated monthly based on the findings of the reconciliation process.

7. MEMBER GRIEVANCE AND APPEALS PROCEDURES AND REQUIREMENTS

7.1 The Contractor shall comply with the Arizona Administrative Code, Title 9, Chapter 34.

7.2 The Contractor shall have in place a written grievance system for Members and Providers, which defines their rights regarding disputed matters with the Contractor. The Contractor's grievance system for Members shall include a grievance process, an appeals process, and access to the State's fair hearing process.

7.3 The Contractor shall acknowledge receipt of each grievance and appeal. For appeals, Contractor shall acknowledge receipt of standard appeals in writing within five working days of receipt and within one working day of receipt of expedited appeals.

7.4 The Contractor shall maintain a record of all complaints from Members and shall provide same to the HCGA pursuant to agreed upon terms, within 10 business days of the initial request, or other terms in this contract. Such record shall include all correspondence relating to and disposition of the complaint.

7.5 The Contractor shall provide and identify one key employee to communicate with, cooperate with, and maintain a working relationship with the identified HCGA Grievance and Appeals Coordinator for the purpose of timely communication and coordination with Members.

7.6 The HCGA will be solely responsible for any and all complaints, issues, disputes, and appeals related to plan enrollment and member eligibility related to payment of premium.

7.7 The Contractor shall provide all requested information to HCGA to assist in the completion of the member Appeals process.

8. MEMBERSHIP AND ENROLLMENT



8.1 HCGA will market health benefits coverage to potentially eligible Employer Groups in Arizona. HCGA provides marketing packets and manuals and provides seminars and training to its staff or licensed, contracted brokers. HCGA will provide Contractor an opportunity to comment on marketing materials that mention Contractor by name or modify Contractor's current material to include HCGA information.

8.2 HCGA will determine the eligibility of prospective Employer Groups and Employee Members as specified in Title 9, Chapter 27, Article 3 of the Arizona Administrative Code.

8.3 HCGA will include behavioral health services described in its Medallion PPO benefit plans. HCGA will also have the option to include the behavioral health services in its other benefit plans.

8.4 HCGA will have the sole responsibility and authority to prepare, describe the terms of, negotiate, enter into, and service the arrangements under a Group Service Agreement with an Employer Group.



8.5 The Contractor must be able to accept HCGA enrollment and membership data files electronically. This will be a daily update file in the format as determined by HCGA in consultation with the Contractor.

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- 8.6 HCGA will establish and bill premium amounts, maintain accounts for each Employer Group, and send required notices such as late notices, conversion notices, and termination notices for nonpayment. HCGA is solely responsible for authorization of, refusal of, agreement to, and determination of terms for any premium payment plans or financial arrangements for any eligible Employer Group enrolled in the HCGA Program. HCGA shall provide Contractor a monthly roster of enrolled Members.
- 8.7 HCGA will pay Contractor a monthly capitation fee in accordance to the terms of this procurement.
- 8.8 Employees and their Dependents, who decline enrollment because of other health insurance coverage, may in the future be eligible to enroll with the Plan provided that the Employee requests enrollment within thirty-one (31) days after the other coverage ends. Those eligible to enroll within 31 days of other coverage ending include:
- 8.8.1 Eligible Employee that loses coverage due to the death of Employee's spouse, divorce, or loss of such coverage due to termination of employment or retirement.
- 8.8.2 Eligible Dependent who had individual or family coverage separate from the Enrollee's coverage and who loses that coverage due to termination of employment or retirement.
- 8.8.3 New Dependents as the result of marriage, birth, adoption, or placement for adoption.
- 8.9 Termination of Coverage: Termination of enrollment and coverage for an Employer Group, an Employee Member, or a dependent shall occur on the last day of the month that:
- 8.9.1 The Employer Group loses eligibility,
- 8.9.2 The Employee Member loses eligibility, or
- 8.9.3 The dependent loses eligibility.

9. ACCOUNT MANAGEMENT AND IMPLEMENTATION

- 9.1 The Contractor shall partner with HCGA in development of the initial phase-in and rollout of procedures prior to the anticipated program implementation of **January 1, 2007**, which is the anticipated effective date of the Contract.
- 9.2 The Contractor shall provide an assigned account representative who is responsive to inquiries, requests, and issues raised by HCGA
- 9.2.1 The primary account representative shall be based in either the Mountain or Pacific Time zones.
- 9.2.2 The primary account representative shall be available to attend quarterly face-to-face meetings at the HCGA Phoenix office at no cost to HCGA.
- 9.3 The Contractor shall provide a representative to attend enrollment meetings for employer groups of 100 or more members if requested by HCGA.

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- 9.4 The Contractor shall respond within one (1) working day to any inquiry from HCGA regarding specific provider participation in the network or status of provider election submissions.
- 9.5 The Contractor shall notify HCGA immediately upon determination and identification of system related problems, programming problems, or data transfer problems. The Contractor shall make every effort necessary to correct such problems as quickly as possible to minimize any negative impact to members and to maintain continual operation of the Healthcare Group Program.
- 9.6 The Contractor shall certify that all systems and internal processes are in compliance with the Health Insurance Portability and Accountability Act (HIPAA).

10. COMMUNICATION AND MARKETING MATERIAL

- 10.1 The Contractor shall prepare and cover the cost of design and production of plan announcements, letters, notices, and brochures. Contractor must submit all material to HCGA for approval prior to distribution to HCGA members.
- 10.2 The Contractor shall assist HCGA with writing applicable portions of Member Handbooks, Provider Handbooks, Employer General Service Agreements, and other documents, if requested.
- 10.3 The Contractor shall periodically provide behavioral health related articles for HCGA newsletters.



11. PUBLIC INFORMATION REQUESTS, MEDIA REQUESTS, PRESS, RELEASES, OR OTHER PUBLIC COMMUNICATION

- 11.1 The Contractor shall notify HCGA within 24 hours of a receipt of a written public information request, written media request, or other public inquiry regarding the HCGA benefit plan. The Contractor agrees that all responses will be approved by HCGA prior to release or response of inquiry.
- 11.2 The Contractor agrees that all telephone inquiries for public information will be transferred to HCGA for response and resolution.
- 11.3 The Contractor shall submit copies of all press releases pertaining to or having impact on AHCCCS or the Healthcare Group of Arizona program. All such releases shall be approved in writing by HCGA prior to submission or response.

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12. CONTRACT TERM COMPLETION/TRANSITION RESPONSIBILITIES

Upon completion of the contract term, Contractor shall provide to HCGA communications and data support for a successful transition to a new Contractor, if applicable.

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1. PROPOSED CONTRACT RATES

Instructions: Offerors have an opportunity to submit pricing three ways: 1) Behavioral Health rates alone covering, at a minimum, all the required services in the Scope of Work; 2) a combination of Behavioral Health rates and EAP rates; and 3) EAP rates only.



When submitting rates, Offerors must use the per employee per month (PEPM) method. Offerors should clearly state which of the above pricing options they are proposing. **Offerors must propose pricing for Option #1.**

OPTION #1: PRICING FOR MANAGED BEHAVIORAL HEALTH SERVICES

| Number of Covered Members | Employee Only PEPM | Employee + Spouse PEPM | Employee + Family PEPM | Employee + Children PEPM |
|----------------------------------|-----------------------|---------------------------|---------------------------|-----------------------------|
| 1500 – 2500 Covered Members | | | | |
| 2501 – 4500 Covered Members | | | | |
| 4501 – 6000 Covered Members | | | | |
| 6001 – 9000 Covered Members | | | | |
| 9001 – 12,000 Covered Members | | | | |
| 12,001 – 15,000 Covered Members | | | | |
| 15,001 – 20,000 Covered Members | | | | |
| More than 20,000 Covered Members | | | | |



OPTION #2: PRICING FOR COMBINATION OF BEHAVIORAL HEALTH AND EAP

| Number of Covered Members | Employee Only PEPM | Employee + Spouse PEPM | Employee + Family PEPM | Employee + Children PEPM |
|----------------------------------|-----------------------|---------------------------|---------------------------|-----------------------------|
| 1500 – 2500 Covered Members | | | | |
| 2501 – 4500 Covered Members | | | | |
| 4501 – 6000 Covered Members | | | | |
| 6001 – 9000 Covered Members | | | | |
| 9001 – 12,000 Covered Members | | | | |
| 12,001 – 15,000 Covered Members | | | | |
| 15,001 – 20,000 Covered Members | | | | |
| More than 20,000 Covered Members | | | | |



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OPTION #3: PRICING FOR EAP PLAN ONLY (only applicable if providing Options 1 & 2)

| Number of Covered Members | Per Employee Per Month |
|----------------------------------|------------------------|
| 1500 – 2500 Covered Members | |
| 2501 – 4500 Covered Members | |
| 4501 – 6000 Covered Members | |
| 6001 – 9000 Covered Members | |
| 9001 – 12,000 Covered Members | |
| 12,001 – 15,000 Covered Members | |
| 15,001 – 20,000 Covered Members | |
| 20,001 – 30,000 Covered Members | |
| More than 30,000 Covered Members | |

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1. **Definition of Terms:** As used in within this solicitation document, and any resultant contract, the terms listed below are defined as follows:
 - 1.1 “*AHCCCS*” means an Arizona Health Care Cost Containment System - managed health care program which pertains to health care services provided pursuant to A.R.S. 36-2903 et seq., and is also the name of the State agency.
 - 1.2 “*Attachment*” means any item the Solicitation requires an Offeror to submit as part of the Offer.
 - 1.3 “*Contract*” means the combination of the Solicitation, including the Instructions to Offerors, Contract Terms and Conditions, and Scope of Work; the Offer; any Best and Final Offers; any Solicitation Amendments or Contract Amendments; and any terms applied by law.
 - 1.4 “*Contract Amendment*” means a written document signed by the Contracting Officer that is issued for the purpose of making changes in the contract.
 - 1.5 “*Contracting Officer*” means the person duly authorized by AHCCCS to enter into and administer Contracts and make written determinations with respect to the Contract, or his or her designee.
 - 1.6 “*Contractor*” means a person who has a contract with AHCCCS.
 - 1.7 “*Days*” means calendar days unless otherwise specified.
 - 1.8 “*Exhibit*” means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
 - 1.9 “*Gratuity*” means a payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
 - 1.10 “*HCGA*” means Healthcare Group of Arizona.
 - 1.11 “*May*” indicates something that is not mandatory but permissible.
 - 1.12 “*Offer*” means bid, proposal or quotation.
 - 1.13 “*Offeror*” means a vendor who responds to a Solicitation.
 - 1.14 “*Shall, Must*” indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of a proposal as non-responsive.
 - 1.15 “*Should*” indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the State may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.

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- 1.16 *"Scope of Work"* means those provisions of this solicitation which specify the work and/or results to be achieved by the Contractor.
- 1.17 *"Solicitation"* means an Invitation for Bids ("IFB"), a Request for Proposals ("RFP"), or a Request for Quotations ("RFQ").
- 1.18 *"Solicitation Amendment"* means a written document that is authorized by the Contracting Officer and issued for the purpose of making changes to the Solicitation.
- 1.19 *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.20 *"State"* means the State of Arizona.

2. **Inquiries:**

- 2.1 **Duty to Examine:** It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing, and check its Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.
- 2.2 **Solicitation Contact Person:** Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation, shall be directed solely to the Solicitation Contact Person. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other State employee unless the Solicitation specifically identifies a person other than the Solicitation Contact Person as a contact.
- 2.3 **Submission of Inquiries:** The Solicitation Contact Person may require that an inquiry, to include exceptions, be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Offer and not be opened until after the Offer due date and time.
- 2.4 **Timeliness:** Any inquiry, to include exceptions, shall be submitted as soon as possible and at least **by September 29, 2006**. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.
- 2.5 **No Right to Rely on Verbal Responses:** Any inquiry that results in changes to the Solicitation shall be answered solely through a written Solicitation Amendment. An Offeror may not rely on verbal responses to its inquiries.
- 2.6 **Solicitation Amendments:** The Solicitation shall only be modified by a Solicitation Amendment.

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2.7 Pre-Offer Conference: If a Pre-Offer Conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. An Offeror should raise any questions they may have about the Solicitation or the procurement at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.

2.8 Persons With Disabilities: Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation Contact Person. Requests shall be made as early as possible to allow time to arrange the accommodation.

3. Offer Preparation:

3.1 Forms: No Facsimile or Telegraphic Offers: An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation will be legible and contain the same information requested on the forms. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected.



3.2 Typed or Ink; Corrections: The Offer shall be typed or in ink. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.

3.3 Evidence of Intent to be Bound: The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as an original signature, may result in rejection of the Offer.



3.4 Exceptions to Terms and Conditions:

3.4.1 If Offerors take any exception to any term, condition or requirement included in this solicitation document, such exception shall be submitted to the Contract Specialist **by September 29, 2006**. This will allow the Contract Specialist to review all exceptions and, if applicable, afford any approved exceptions to all other potential Offerors.

3.4.2 If an Offeror includes, in their proposal, exceptions, not covered by paragraph 3.4.1, above, such exceptions shall be null, void and without force and shall not be considered, and may negatively affect AHCCCS' proposal evaluation based on the published evaluation criteria or may result in rejection of the proposal.

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- 3.4.3 To the extent they are inconsistent with the terms of the Solicitation, the Offeror's preprinted or standard terms will not be considered by AHCCCS as a part of any resulting Contract.
- 3.5 Subcontracts: Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.
- 3.6 Cost of Offer Preparation: AHCCCS will not reimburse any Offeror the cost of responding to a Solicitation.
- 3.7 Solicitation Amendments: Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed copy of a material Solicitation Amendment may result in rejection of the Offer.
- 3.8 Provision of Tax Identification Numbers: Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number, if applicable, in the space provided on the Offer and Acceptance Form.
- 3.9 Federal Excise Tax: The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be prepared upon request.
- 3.10 Identification of Taxes in Offer: The State of Arizona is subject to all applicable state and local transaction privilege taxes. If Arizona resident Offerors do not indicate tax as a separate item in the offer, the State will conclude that the price(s) offered includes all applicable taxes.
- 3.11 IRS W9 Form: In order to receive payment under any resultant contract, Contractor shall have a current IRS W9 Form on file with the State of Arizona.
- 3.12 Disclosure: If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.
- 3.13 Solicitation Order of Precedence: In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:
- 3.13.1 Special Terms and Conditions;

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3.13.2 Uniform Terms and Conditions

3.13.3 Statement or Scope of Work;

3.13.4 Specifications;

3.13.5 Attachments;

3.13.6 Exhibits;

3.13.7 Special Instructions to Offerors, and

3.13.8 Uniform Instructions to Offerors

3.14 Delivery: Unless otherwise stated in the Contract, all prices shall be F.O.B. Destination and shall include all delivery and unloading at the destination.

4. Submission of Offer:

4.1 Sealed Envelope or Package: Each Offer shall be submitted to the submittal location identified in this Solicitation, in a sealed envelope or package that identifies its contents as an Offer and the Solicitation number to which it responds. The appropriate Solicitation number shall be plainly marked on the outside of the envelope or package.



4.2 Offer Amendment or Withdrawal: An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

4.3 Public Record: Under applicable law, all Offers submitted and opened are public records and must be retained by AHCCCS. Offers shall be open to public inspection after Contract award, except for such portions of an Offer deemed to be confidential by AHCCCS.

4.4 Non-collusion, Employment, and Services: By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:

4.4.1 It did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and

4.4.2 It does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable federal, state and local laws and executive orders regarding employment.



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5. Evaluation:

- 5.1 Unit Price Prevails: Where applicable, in the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.
- 5.2 Taxes. Arizona transaction privilege and use taxes shall not be considered when evaluating Offers.
- 5.3 Late Offers: An Offer submitted after the exact Offer due date and time shall be rejected.
- 5.4 Disqualification: The Offer of an Offeror who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall be rejected.
- 5.5 Offer Acceptance Period: An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be ninety (90). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for ninety (90) days from the Best and Final Offer due date.
- 5.6 Payment: Payment shall comply with the requirement of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt of goods or services, the contractor shall submit a complete and accurate invoice for payment from AHCCCS within thirty (30) days.
- 5.7 Waiver and Rejection Rights: Notwithstanding any other provision of the Solicitation, AHCCCS reserves the right to:
 - 5.7.1 Waive any minor informality;
 - 5.7.2 Reject any and all Offers or portions thereof; or
 - 5.7.3 Cancel a Solicitation.

6. Award:

- 6.1 Number or Types of Awards: Where applicable, AHCCCS reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, whichever is deemed most advantageous to AHCCCS. If the Contracting Officer determines that an aggregate award to one Offeror is not in AHCCCS' best interest, "all or none" Offers shall be rejected.
- 6.2 Contract Inception: An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Contracting Officer's signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

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6.3 **Effective Date:** The effective date of this Contract shall be the date that the Contracting Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

7. Confidential Information:

7.1 If a person believes that a portion of a bid, proposal, offer, specification, or protest contains information that should be withheld due to confidentiality, the Contracting Officer shall so be notified. A detailed statement, presented as a cover letter, shall both identify those specific areas considered confidential and also state the specific harm or prejudice which may arise if disclosed.

7.2 The information identified by the person as confidential shall not be disclosed until the Contracting Officer makes a written determination. The Contracting Officer shall review the statement and information and shall determine in writing whether the information shall be withheld.

7.3 If so approved, such confidential information shall be removed from the public record and kept sealed in a separate envelope marked "Confidential." Such information will not be made available to the public.

7.4 An entire bid, proposal, offer, specification, or protest shall not be identified as confidential; only those portions which are considered proprietary, trade secrets or patented information. Pricing shall not be considered as confidential.

8. Contract Applicability: Any contract resulting from this solicitation shall be for the exclusive use of AHCCCS.



9. Electronic Documents: AHCCCS may provide an electronic version of this procurement document. Any unidentified alteration or modification to the original document (or to any Exhibit contained therein) issued by AHCCCS shall be null and void. In those instances where modifications are identified, the original document issued by the State shall take precedence.

10. Proposal Opening: Proposals shall be opened on the date and time, and at the place designated on the cover page of this document, unless amended in writing by the state agency issuing the solicitation.



11. Protests: A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and the Arizona Administrative Code Title 2, Chapter 7, Article 9, Rules R2-7-901 through R2-7-937. It shall be in writing and be filed with the AHCCCS Contracting Officer and with the State Procurement Administrator. A protest of a solicitation shall be received by the AHCCCS Contracting Officer before the offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

11.1 The name, address and telephone number of the protester;

11.2 The signature of the protester or its representative;

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- 11.3 Identification of the purchasing agency and the solicitation or contract number;
- 11.4 A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and the form of relief requested.

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1. **Offeror's Contacts:** All questions concerning this Request for Proposal, including technical specifications, proposal process, etc. shall be directed to the Solicitation Contact Person, identified on the first page of this solicitation document. All questions shall be in writing and submitted either via e-mail (preferred) or telefax. Contact information is found on the front page of this document. Offerors may not contact other AHCCCS employees concerning this solicitation.



2. **Evaluation Criteria:** Evaluation criteria are listed in the relative order of importance. The evaluation will be conducted in accordance with an established evaluation plan. The Offeror's response to the questionnaire will be used to assist the evaluators in review of criteria # 2.1, 2.3, and 2.4, below. The award(s) will be made to the responsible Offeror whose proposal is determined to be the most advantageous to AHCCCS and HCGA, based on the following criteria:
 - 2.1 Ability to provide excellent customer and behavioral health services to HCGA and HCGA members.
 - 2.2 Cost.
 - 2.3 Strength and extent of the behavioral health provider network - with preference given to strong statewide networks.
 - 2.4 Administrative simplicity.

3. **Proposal Information:** Offeror is to submit their proposal with one (1) original and four (4) copies (for a total of five (5) sets) in the format as contained in this RFP. **The original copy of the proposal should be clearly labeled "ORIGINAL."** The material should be in sequence and related to the RFP. AHCCCS will not provide any reimbursement for the cost of developing or presenting proposals in response to this RFP. Failure to include the requested information may have a negative impact on the evaluation of the Offeror's proposal.

4. **Offshore Performance of Work Prohibited:**



Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

5. **Offeror's Checklist:** The Offeror should complete Exhibit C, "Offeror's Checklist."



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6. **Intent to Provide Certificate of Insurance:** The offeror should provide a statement that, if notified of contract award, will submit to AHCCCS for review and acceptance, the applicable certificate/s of insurance as required within this RFP document, within five (5) business days of such notification.
7. **HIPAA Business Associate Addendum:** As protected health information, as defined in 45 CFR 164.501, may be made available to the selected vendor, this Addendum is attached and is part of the Contract.
8. **Offeror's Responsibility:** The Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation categories and that the State of Arizona is under no obligation to solicit such information if it is not included with the Offeror's proposal. Failure of the Offeror to submit such information may cause an adverse impact on the evaluation of the Offeror's proposal.
9. **Clarifications:** Clarifications may be requested from offerors at any time after receipt of offers. Clarifications may be requested orally or in writing. If clarifications are requested orally, the offeror shall confirm the request in writing. A request for clarifications shall not be considered a determination that the offeror is susceptible for award.
10. **Negotiations:** In accordance with R2-7-C314, if negotiations are conducted, negotiations shall be conducted with all offerors determined to be in the competitive range or reasonably susceptible for award. Award may be made without negotiations; therefore, offers should be submitted complete and on most favorable terms.
11. **Additional Information for Submittal of Proposal:**
 - 11.1 It is the responsibility of each Offeror to insure their proposal is delivered to AHCCCS by the due date and time. Allow for such contingencies as heavy traffic, weather, directions to submittal location, parking, common carriers not delivering as requested, etc. AHCCCS shall not accept late proposals past the due date and time.
 - 11.2 AHCCCS is not responsible for supplying boxes, envelopes, tape, etc. to Offerors at time of proposal delivery.
 - 11.3 When submitting your proposal to AHCCCS, insure your company name and the Request for Proposal solicitation number is clearly marked on the outside of the envelope/package.
12. **Federal Immigration and Nationality Act:**



By submission of the offer, the Offeror warrants that both it and all proposed subcontractors are and shall remain in compliance with all federal, state and local immigration laws and rules relating to the immigration status of their employees. The State may, at its sole discretion, require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the Offeror shall have 5 days from receipt of the request to supply adequate information. Failure to comply with this

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instruction or failure to supply requested information within the timeframe specified shall result in the offer not being considered for contract award.

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1. **Advertising and Promotion of Contract:** The Contractor shall not advertise or publish information for commercial benefit concerning this contract without the prior written approval of the Contracting Officer.
2. **Amendments:** This Contract is issued under the authority of the Contracting Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract unless otherwise permitted by the Special Terms and Conditions. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized State employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.
3. **Arizona Law:** The law of Arizona applies to this contract including, where applicable, the Uniform Commercial Code, as adopted in the State of Arizona.
4. **Arizona Procurement Code:** The Arizona Procurement Code, A.R.S. Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code Title 2, Chapter 7, is a part of this Contract as if fully set forth in it.
5. **Assignment and Delegation:** The Contractor shall not assign any right nor delegate any duty under this contract without prior written approval of the Contracting Officer, who will not unreasonably withhold such approval.
6. **Audits and Inspections:**
 - 6.1 The Contractor shall comply with all provisions specified in A.R.S. 35-214 and 35-215 and AHCCCS policies and procedures relating to the audit of Contractor's records and the inspection of Contractor's facilities. Contractor shall fully cooperate with AHCCCS staff and allow them reasonable access to Contractor's staff, subcontractors, members, and records.
 - 6.2 At any time during the term of this contract, and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by AHCCCS and, where applicable, the federal government, to the extent that the books and records relate to the performance of the contract or subcontracts.
 - 6.3 AHCCCS and the federal government may evaluate through on-site inspection or other means, the quality, appropriateness and timeliness of services performed under this contract.
7. **Availability of Funds for the Next Fiscal Year:** Funds may not presently be available for performance under this Contract beyond the current fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current fiscal year until funds are made available for performance of this Contract. The State shall make reasonable efforts to secure such funds.

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8. **Cancellation for Conflict of Interest:** Pursuant to A.R.S. 38-511, AHCCCS may cancel this contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of AHCCCS is or becomes at any time, while the Contract or an extension of the Contract is in effect, an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation, unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. 38-511.
9. **Compliance with Applicable Laws:** The materials and services supplied under this Contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
10. **Contract Claims:** All contract claims or controversies under this contract shall be resolved according to A.A.C. Title 9, Chapter 34 and rules adopted thereunder.
11. **Contract Order of Precedence:** In the event in the provisions of the contract, as accepted by AHCCCS and as they be amended, the following shall prevail in the order set forth below:
- 11.1 Special Terms and Conditions;
 - 11.2 Uniform Terms and Conditions;
 - 11.3 Statement or Scope of Work;
 - 11.4 Specifications;
 - 11.5 Attachments;
 - 11.6 Exhibits;
 - 11.7 Documents, referenced or included in the solicitation.
 - 11.8 Terms and conditions of the accepted offer
12. **Contractor's Representations and Warranties:** All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
13. **Delivery:** Unless stated otherwise in the contract, all prices shall be F.O.B. Destination and shall include all delivery and unloading at the destination.

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- 14. Exclusions:** Except as otherwise set forth in this Contract, there are no express or implied warranties of merchantability or fitness.
- 15. Fitness.** The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 16. Force Majeure:**
- 16.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
- 16.2 Force Majeure shall not include the following occurrences:
- 16.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
- 16.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
- 16.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.
- 16.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
- 16.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

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17. **Gratuities:** The Contracting Officer may, by written notice to the Contractor, immediately terminate this contract if it determines that employment or a gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of AHCCCS for the purpose of influencing the outcome of the procurement or securing the contract, an amendment to the contract, or favorable treatment concerning the contract, including the making of any determination or decision about contract performance. The Contracting Officer, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the gratuity offered by the Contractor.

18. **Implied Contract Terms:** Each provision of law and any terms required by law to be in this contract are a part of this contract as if fully stated in it.

19. **Indemnification -- Patent and Copyright:** The Contractor shall defend, indemnify and hold harmless AHCCCS against any liability including costs and expenses for infringement of any patent, trademark or copyright arising out of contract performance or use by AHCCCS of materials furnished or work performed under this contract. The Contracting Officer shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

20. **Indemnification**



20.1 Contractor/Vendor Indemnification (Not Public Agency)

The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence



20.2 Public Agency Language Only

Each party ("as indemnitor") agrees to indemnify, defend, and hold harmless the other party (as indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims')_arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

21. **Inspection/Testing:** The contractor agrees to permit access to its facilities, subcontractor facilities and the contractor's processes for producing the materials, at reasonable times for inspection of the materials covered under this contract. AHCCCS shall also have the right to test at its own cost the materials to be supplied under this contract. Neither inspection at the contractor's facilities nor testing shall constitute final acceptance of the materials. If AHCCCS determines non-compliance of the materials, the contractor shall be responsible for the payment of all costs incurred by AHCCCS for testing and inspection.



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22. **IRS W9 Form:** In order to receive payment under any resulting contract, the contractor shall have a current IRS W9 Form on file with the State of Arizona.
23. **Liens:** The Contractor warrants that the materials supplied under this contract are free of liens.
24. **No Parole Evidence:** This contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any term used in this contract.
25. **No Waiver:** Either party's failure to insist on strict performance of any term or condition of the contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the non-conforming performance knows of the nature of the performance and fails to object to it.
26. **Nonconforming Tender:** Materials supplied under this contract shall fully comply with the contract. The delivery of materials or a portion of the materials in an installment that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials, AHCCCS may terminate the contract for default under applicable termination clauses in the contract, exercise any of its rights and remedies under the Uniform Commercial Code or pursue any other right or remedy available to it.
27. **Non-Discrimination:** The Contractor shall comply with State Executive Order No. 99-4, which mandates that all persons, regardless of race, color, religion, sex, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable federal and state laws, rules and regulations, including the Americans with Disabilities Act. The Contractor shall take positive action to ensure that applicants for employment, employees, and persons to whom it provides service are not discriminated against due to race, creed, color, religion, sex, national origin or disability.
28. **Non-exclusive Remedies:** The rights and the remedies of AHCCCS under this contract are not exclusive.
29. **Notices:** Notices to the Contractor required by this Contract shall be made by the Contracting Officer to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to AHCCCS required by the Contract shall be made by the Contractor to the Contracting Officer. An authorized Contracting Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice and an amendment to the Contract shall not be necessary.
30. **Offshore Performance of Work Prohibited**
Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are

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incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

31. **Payments:** The Contractor shall be paid as specified in the Contract. Payment must comply with requirements of A.R.S. Title 35.
32. **Payment of Taxes by AHCCCS:** AHCCCS shall pay only the rate and/or amount of taxes identified in the Offer and in any resulting contract.
33. **Purchase Orders:** The contractor shall, in accordance with all terms and conditions of the contract, fully perform and shall be obligated to comply with all purchase orders received by the contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Contracting Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this contract.
34. **Property of AHCCCS:** Any materials, including reports, computer programs and other deliverables, created under this contract are the sole property of AHCCCS. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the Contracting Officer.
35. **Records:** Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other records (“records”) relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records at no cost to the State.
36. **Relationship of Parties:** The Contractor under this contract is an independent contractor. Neither party to this contract shall be deemed to be the employee or agent of the other party to the contract.
37. **Risk of Loss:** The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
38. **Right of Offset:** AHCCCS shall be entitled to offset against any amounts due the Contractor any expenses or costs incurred by AHCCCS concerning the Contractor's non-conforming performance or failure to perform the contract, including expenses, costs and damages described in the proceeding paragraphs.
39. **Right to Assurance:** If AHCCCS, in good faith, has reason to believe that the Contractor does not intend to perform or continue performing this contract, the Contracting Officer may demand in writing that the Contractor give a written assurance of intent to perform. The demand shall be sent to the Contractor by certified mail, return receipt required. Failure by the Contractor to provide written assurance within the

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number of days specified in the demand may, at the Contracting Officer's option, be the basis for terminating the contract.

40. **Severability:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract, which may remain in effect without the invalid provision, or application.
41. **State and Local Transaction Privilege Taxes:** AHCCCS is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.
42. **Stop Work Order:**
- 42.1 AHCCCS may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period of ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 42.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
43. **Subcontracts:** The contractor may, with the consent of the Contracting Officer, enter into written subcontract(s) for performance of certain of its functions under the contract. Subcontractors must be approved in writing by the Contracting Officer to the effective date of any subcontract.
- 43.1 No subcontract which the contractor enters into with respect to performance under the contract shall in any way relieve the contractor of any responsibility for performance of its duties.
- 43.2 The contractor shall give the Contracting Officer immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the contractor by any subcontractor or vendor which in the opinion of the contractor may result in litigation related in any way to the contract with AHCCCS.
44. **Suspension or Debarment:** The Contracting Officer may, by written notice to the Contractor, immediately terminate this Contract if the Contracting Officer or the State determine that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public

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procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.



- 45. Tax Indemnification:** The contractor and all subcontractors shall pay all federal, State and local taxes applicable to its operation and any persons employed by the contractor. Contractor shall, and require all subcontractors, to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or State and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
- 46. Termination for Convenience:** The Contracting Officer reserves the right to terminate the contract in whole or in part at any time when in the best interests of AHCCCS without penalty or recourse. The Contracting Officer shall give written notice by certified mail, return receipt requested, to the Contractor of the termination at least ninety (90) days before the effective date of the termination. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the contract shall become the property of and be delivered to the Contracting Officer. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 47. Termination for Default:**
- 47.1 The Contracting Officer reserves the right to terminate this contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or failure to take corrective action as required by the Contracting Officer to comply with the terms of the contract. If the Contractor is providing services under more than one contract with AHCCCS, the Contracting Officer may deem unsatisfactory performance under one contract to be cause to require the Contractor to provide assurance of performance under any and all other contracts. In such situations, the Contracting Officer reserves the right to seek remedies under both actual and anticipatory breaches of contract if adequate assurance of performance is not received. The Contracting Officer shall mail written notice of the termination and the reason(s) for it to the Contractor by certified mail, return receipt requested.
- 47.2 In the event the Contractor requests a hearing prior to termination, AHCCCS is required by the Balanced Budget Act of 1997 to oversee the operation of the Contractor entity through appointment of temporary management prior to the hearing.
- 47.3 Upon termination under this paragraph, all documents, data, and reports prepared by the Contractor under the contract shall become the property of and be delivered to the Contracting Officer on demand.

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47.4 The Contracting Officer may, upon termination of this contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this contract. The Contractor shall be liable for any excess costs incurred by AHCCCS in procuring the materials or services in substitution for those due from the Contractor.

48. **Third Party Antitrust Violations:** The Contractor assigns to AHCCCS any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor toward fulfillment of this contract.

49. **Arbitration** The Parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

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1. **Assignment of Contract and Bankruptcy:** This contract is voidable and subject to immediate cancellation by the Contracting Officer upon Contractor becoming insolvent or filing proceedings in bankruptcy or assigning rights or obligations under this contract without the prior written consent of the Contracting Officer.
2. **Authority to Contract:** This contract is issued under the authority of the Contracting Officer who signed this contract. Changes to the contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized state employee or made unilaterally by the Contractor are violations of the contract and of applicable law. Such changes, including unauthorized written contract amendments, shall be void and without effect, and the Contractor shall not be entitled to any claim under this contract based on those changes.
3. **Choice of Forum:** The parties agree that jurisdiction over any action arising out of or relating to this contract shall be brought or filed in a court of competent jurisdiction located in the State of Arizona.
4. **Continuation of Performance Through Termination:** The contractor shall continue to perform, in accordance with the requirements of the contract, up to the date of termination, as directed in the termination notice.
5. **Conflict of Interest:** The Contractor shall not undertake any work that represents a potential conflict of interest, or which is not in the best interest of AHCCCS or the State without prior written approval by AHCCCS. The Contractor shall fully and completely disclose any situation that may present a conflict of interest. If the Contractor is now performing or elects to perform during the term of this contract any services for any AHCCCS health plan, provider or Contractor or an entity owning or controlling same, the Contractor shall disclose this relationship prior to accepting any assignment involving such party.
6. **Contract Cancellation (Immediate):** This contract is critical to AHCCCS and the agency reserves the right to immediately cancel the whole or any part of this contract due to failure of the contractor to carry out any material obligation, term or condition of the contract. The Contracting Officer shall issue a written notice of default effective at once and not deferred by any interval of time. Default shall be for acting or failing to act in any of the following:
 - 6.1 The contractor provides material that does not meet the specifications of the contract;
 - 6.2 The contractor fails to adequately perform the services set forth in the specifications of the contract;
 - 6.3 The contractor fails to complete the work required or furnish the materials required within the time stipulated in the contract;
 - 6.4 The contractor fails to make progress in the performance of the contract and/or gives the Contracting Officer reason to believe that the contractor will not or cannot perform to the requirements of the contract.

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6.5 The Contracting Officer may resort to any single or combination of the following remedies:

6.5.1 Cancel any contract;

6.5.2 Reserve all rights or claims to damage for breach of any covenants of the contract;

6.5.3 Perform any test or analysis on materials for compliance with the specifications of the contract. If the result of any test confirms a material non-compliance with the specifications, any reasonable expense of testing shall be borne by the contractor.



6.5.4 In case of default, the Contracting Officer reserves the right to purchase materials or to complete the required work in accordance with the Arizona Procurement Code. The Contracting Officer may recover reasonable excess costs from the contractor by:

6.5.4.1 Deduction from an unpaid balance;

6.5.4.2 Collection against the bid and/or performance bond; or

6.5.4.3 Any combinations of the above or any other remedies as provided by law.

7. **Contract Disputes:** Contract disputes arising under A.R.S. § Title 36, Chapter 29 shall be adjudicated in accordance with AHCCCS Rules.
8. **Cooperation with other Contractors:** AHCCCS may award other contracts for additional work related to this contract and Contractor shall fully cooperate with such other contractors and AHCCCS employees or designated agents, and carefully fit its own work to such other contractors' work. Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by AHCCCS employees.
9. **Confidentiality of Records:** The contractor shall establish and maintain procedures and controls that are acceptable to AHCCCS for the purpose of assuring that no information contained in its records or obtained from AHCCCS or others carrying out its functions under the contract, shall be used or disclosed by it, its agents, officers or employees, except as required to efficiently perform duties under the contract. Persons requesting such information shall be referred to AHCCCS. The contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the contractor as needed for the performance of duties under the contract, unless otherwise agreed to, in writing, by AHCCCS.
10. **Covenant Against Contingent Fees:** The Contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For violation of this warranty, the Contracting Officer shall have the right to annul this contract without liability.

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11. Contract:

11.1 The contract between AHCCCS and the contractor shall consist of (1) the Request for Proposal (RFP) and any amendments thereto, and (2) the proposal submitted by the contractor in response to the RFP. In the event of a conflict in language between the two documents referenced, the provisions and requirements set forth and/or referenced in the RFP shall govern. However, AHCCCS reserves the right to clarify any contractual relationship in writing, and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the contractor's proposal. In all other matters not affected by the written clarification, if any, the RFP shall govern.

11.2 The contract shall be construed according to the laws of the State of Arizona. The State of Arizona is not obligated for the expenditures under the contract until funds have been encumbered.



12. Disclosure of Confidential Information: The Contractor shall not, without prior written approval from the Contracting Officer, either during or after the performance of the services required by this contract, use, other than for such performance, or disclose to any person other than AHCCCS personnel with a need to know, any information, data, material, or exhibits created, developed, produced, or otherwise obtained during the course of the work required by this contract. This nondisclosure requirement shall also pertain to any information contained in reports, documents, or other records furnished to the Contractor by AHCCCS.

13. Effective Date: The effective date of this contract shall be the date that the Contracting Officer signs the Offer and Award page of this document, unless another date is specifically stated in the Contract.

14. Employees of the Contractor: All employees of the Contractor employed or in performance of work under this Contract shall be employees of the Contractor at all times and not of AHCCCS. The Contractor shall comply with the Social Security Act, Workers' Compensation laws and unemployment laws of the State of Arizona as well as federal, state and local legislation relevant to the Contractor's business.

15. Federal Immigration and Nationality Act:

The Contractor shall comply with all federal, state, and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the Contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default, and suspension and/or debarment of the Contractor.

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16. Fraud and Abuse:



- 16.1 It shall be the responsibility of the Contractor to report all cases of suspected fraud and abuse by subcontractors, members or employees. The Contractor shall provide written notification of all such incidents to the Contracting Officer.
- 16.2 As stated in A.R.S. § 13-2310, incorporated herein by reference, any person who knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions is guilty of a class 2 felony.
- 16.3 Contractors are required to research potential overpayments identified by a fraud and abuse investigation or audit conducted by AHCCCS. After conducting a cost benefit analysis to determine if such action is warranted, the Contractor should attempt to recover any overpayments identified due to erroneous, false or fraudulent billings.

17. Incorporation by Reference: This solicitation and all attachments and amendments, the Contractor's proposal, and final proposal revisions accepted by the Contracting Officer, and any approved subcontracts are hereby incorporated by reference into the contract.

18. Independent Contractor: The contractor represents himself/herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Arizona and/or AHCCCS. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, etc.

19. Indemnification Clause:

Contractor shall indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights performed by the Contractor for the State of Arizona.

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This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

20. **Insurance Requirements:**

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

20.1 **Minimum Scope And Limits Of Insurance:** Contractor shall provide coverage with limits of liability not less than those stated below.



20.1.1 Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Blanket Contractual Liability – Written and Oral \$1,000,000
- Fire Legal Liability \$ 50,000
- Each Occurrence \$1,000,000

20.1.1.1 The policy shall be endorsed to include the following additional insured language: ***“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.”***

20.1.1.2 Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

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20.1.2 Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

The policy shall be endorsed to include the following additional insured language: **“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor.”**

20.1.3 Worker's Compensation and Employers' Liability

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| Workers' Compensation | Statutory |
| Employers' Liability | |
| Each Accident | \$ 500,000 |
| Disease – Each Employee | \$ 500,000 |
| Disease – Policy Limit | \$1,000,000 |



20.1.3.1 Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

20.1.3.2 This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

20.1.4 Professional Liability (Errors and Omissions Liability)

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| Each Claim | \$1,000,000 |
| Annual Aggregate | \$2,000,000 |

20.1.4.1 In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

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20.1.4.2 The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work for this contract.

20.2. **Additional Insurance Requirements:** The policies shall include, or be endorsed to include, the following provisions:

20.2.1 The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

20.2.2 The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.

20.2.3 Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.



20.3 **Notice Of Cancellation:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to **AHCCCS, Contracts and Purchasing, 701 E. Jefferson St., MD 5700, Phoenix, AZ 85034**, and shall be sent by certified mail, return receipt requested.

20.4. **Acceptability Of Insurers:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

20.5. **Verification Of Coverage:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.



All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to **AHCCCS, Contracts and Purchasing, 701 E. Jefferson St., MD 5700, Phoenix, AZ 85034**. The State of Arizona



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project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

- 20.6. **Subcontractors:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies **or** Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- 20.7. **Approval:** Any modification or variation from the *insurance requirements* in this Contract shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.
- 20.8. **Exceptions:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.
21. **Key Personnel:** It is essential that the contractor provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The contractor must assign specific individuals to the key positions. Once assigned to work under the contract, key personnel shall not be removed or replaced without the prior written approval of AHCCCS' authorized representative and a copy to the Contracting Officer of record.
22. **Licenses:** Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the contractor.
23. **Lobbying:** No funds paid to the Contractor by AHCCCS, or interest earned thereon, shall be used for the purpose of influencing or attempting to influence an officer or employee of any federal or State agency, a member of the United States Congress or State Legislature, an officer or employee of a member of the United States Congress or State Legislature in connection with awarding of any federal or State contract, the making of any federal or State grant, the making of any federal or State loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal or State contract, grant, loan, or cooperative agreement. The Contractor shall disclose if any funds other than those paid to the Contractor by AHCCCS have been used or will be used to influence the persons and entities indicated above and will assist AHCCCS in making such disclosures to CMS.
24. **No Guaranteed Quantities:** AHCCCS does not guarantee the Contractor any minimum or maximum quantity of services or goods to be provided under this contract.

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25. **Non-exclusive Contract:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of AHCCCS. The state reserves the right to obtain like goods or services from another source when necessary.
26. **Other Contracts:** AHCCCS may undertake or award other contracts for additional or related work and the contractor shall fully cooperate with such contractors and state employees and carefully fit his own work to such additional work. The contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by state employees. AHCCCS shall equitably enforce this section to all contractors to prevent the imposition of unreasonable burdens on any contractor.
27. **Ownership of Information and Data:**
- 27.1 Any data or information system, including all software, documentation and manuals, developed by Contractor pursuant to this contract, shall be deemed to be owned by AHCCCS. The federal government reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal government purposes, such data or information system, software, documentation and manuals. Proprietary software which is provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership or licensing provisions of this section.
- 27.2 Data, information and reports collected or prepared by Contractor in the course of performing its duties and obligations under this contract shall be deemed to be owned by AHCCCS. The ownership provision is in consideration of Contractor's use of public funds in collecting or preparing such data, information and reports. These items shall not be used by Contractor for any independent project of Contractor or publicized by Contractor without the prior written permission of the Contracting Officer. Subject to applicable state and federal laws and regulations, AHCCCS shall have full and complete rights to reproduce, duplicate, disclose and otherwise use all such information. At the termination of the contract, Contractor shall make available all such data to the Contracting Officer within thirty (30) days following termination of the contract or such longer period as approved by the Contracting Officer. For purposes of this subsection, the term "data" shall not include member medical records.
- 27.3 Except as otherwise provided in this section, if any copyrightable or patentable material is developed by Contractor in the course of performance of this contract, the federal government, AHCCCS and the State of Arizona shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for state or federal government purposes. Contractor shall additionally be subject to the applicable provisions of 45 CFR Part 74 and 45 CFR Parts 6 and 8.
28. **Responsibility for Payments Indemnification:** The contractor shall be responsible for issuing payment for services performed by the contractor's employees and will indemnify and save AHCCCS harmless for

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all claims whatsoever growing out of the lawful demands of employees, subcontractors, suppliers or any other third party incurred in the furtherance of the performance of the contract. The contractor shall, at AHCCCS' request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.



29. Term of Contract and Option to Renew:

- 29.1 The initial term of this contract shall be for one (1) initial year with four (4) one-year options to extend, not to exceed a total contracting period of five (5) years. The terms and conditions of any such contract extension shall remain the same as the original contract, as amended. All contract extensions shall be through contract amendment, and shall be at the sole option of AHCCCS.
- 29.2 When the Contracting Officer issues an amendment to extend the contract, the provisions of such extension will be deemed to have been accepted 60 days after the date of mailing by the Contracting Officer, even if the extension amendment has not been signed by the Contractor, unless within that time the Contractor notifies the Contracting Officer in writing that it refuses to sign the extension amendment. If the Contractor provides such notification, the Contracting Officer will initiate contract termination proceedings.
- 29.3 If the Contractor chooses not to renew this contract, the Contractor may be liable for certain costs associated with the transition of its members to a different Contractor. If the Contractor provides the Contracting Officer written notice of its intent not to renew this contract at least 180 days before its expiration, this liability for transition costs may be waived by the Contracting Officer.

30. Termination - Availability of Funds: Funds are not presently available for performance under this contract beyond the current fiscal year. No legal liability on the part of AHCCCS for any payment may arise under this contract until funds are made available for performance of this contract. AHCCCS shall make reasonable efforts to secure such funds.

31. Type of Contract: Firm Fixed-Price.

32. Warranty of Services: The Contractor warrants that all services provided under this contract will conform to the requirements stated herein. AHCCCS' acceptance of services provided by the Contractor shall not relieve the Contractor from its obligations under this warranty. In addition to its other remedies, the Contracting Officer may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all of the provisions of this contract in the manner and to the same extent as the services originally furnished



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INSTRUCTIONS

- A. In responding to the Questionnaire, re-state the question and then provide your answer. Responses should be as succinct as possible; however, not to the detriment of providing a full understanding of your capabilities. All answers should be based on your current, not planned, capabilities, unless otherwise noted. Please submit no more than twenty (20 pages) for the questionnaire. Pre-printed documents (financial statements, plan summaries, etc.) and provider network lists will not count toward the 20-page maximum. These pre-printed items should be referred to in the appropriate answer and placed in an appendix to the questionnaire.
- B. Missing information shall be indicated as “not available.” Information that is not applicable to your organization’s response shall be indicated as “N/A.”
- =====

1. GENERAL ADMINISTRATION

- 1.1 Please provide the following:
- 1.1.1 Name of organization
 - 1.1.2 Address of principal office
 - 1.1.3 Organization’s website address
 - 1.1.4 Contact name
 - 1.1.5 Telephone number
 - 1.1.6 Fax Number
 - 1.1.7 E-mail address
- 1.2 Indicate the number of clients you have in Arizona in the following employee group sizes:
- 1.2.1 Less than 1,000 employees
 - 1.2.2 1,001 – 5,000 employees
 - 1.2.3 5,001 – 10,000 employees
 - 1.2.4 More than 10,000 employees
- 1.3 Is your organization privately or publicly held? Who is your parent company (if applicable)?
- 1.4 Is your firm currently involved in any litigation that could potentially impact the ability to serve out the terms of the contract(s)? If so, please specify the circumstances and timeframe for litigation resolution.
- 1.5 Are there any judgments, tax deficiencies, or claims pending against your organization? Has your organization ever gone through a bankruptcy? If so, please specify the circumstances and the timeframes involved.
- 1.6 Provide a brief summary of your disaster recovery plan related to equipment, software, and client files.

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- 1.7 Provide a minimum of three (3) professional references from organizations which have used or are using your organization’s behavioral health and/or EAP services. Reference information may be shown on the form attached as Exhibit B or in a similar manner. Since these references may be checked, insure that all information is current, accurate, and that prior permission to use is obtained from each.

2. FINANCIAL

- 2.1 Submit an annual report for the last year.
- 2.2 If applicable, please provide your most recent company ratings by each of the following organizations:

| Agency | Rating | Date |
|---------------------|--------|------|
| Standard and Poor’s | | |
| Duff and Phelps | | |
| AM Best | | |
| Moody’s | | |

3. BENEFITS AND EXCLUSIONS



- 3.1 Provide a detailed and itemized list of all services included in your proposal for the HCGA. In addition, list other services that are available and associated charges.
- 3.2 Provide your list of benefit exclusions.
- 3.3 List out-of-network benefits that you provide. Describe any limitations or special circumstances required for the use of an out-of-network provider. Indicate any steps that members must take to use out-of-network providers.
- 3.4 Provide a sample(s) of plan summary brochures prepared for members.

4. SUBCONTRACTORS

- 4.1 Will any subcontractors be utilized for any of the services you intend to provide to HCGA? If so, please furnish the following information for each one:
- 4.1.1 Name of each subcontractor, length of time you have utilized them, and services each are providing. Do not include providers.
- 4.1.2 Confirm that you are accountable for the performance of all subcontractors.

5. PROVIDERS



- 5.1 Do you conduct provider satisfaction surveys? If yes, provide a sample of your survey instrument and the most recent results.
- 5.2 Describe your provider credentialing and recredentialing processes and criteria.

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- 5.3 Describe your provider grievance procedures.
- 5.4 How often does your Provider Relations Department communicate with your network providers? What is the typical mode of communication with your network providers?
- 5.5 How will you communicate to providers that HCGA has implemented the plan?
- 5.6 What procedure do you follow when a provider leaves the network? Will the HCGA staff or members receive notification when a provider leaves the network?
- 5.7 What is your willingness and ability to add providers to the network to meet HCGA's needs?
- 5.8 Describe how out-of-network providers are reimbursed.
- 5.9 How do providers access eligibility information?
- 5.10 Do you monitor provider accessibility and average appointment wait times for routine visits? If yes, describe.
- 5.11 How frequently are the provider directories updated (hard copy and website)?
- 5.12 Please provide provider lists in Excel format. The following is a list of data elements required. Each should be submitted in its own field (column). Do not combine:
- 5.12.1 Network Practitioner List
- 5.12.1.1 Provider's Last Name
 - 5.12.1.2 Provider's First Name
 - 5.12.1.3 Provider's Degree
 - 5.12.1.4 Specialty
 - 5.12.1.5 Primary Service Street Address
 - 5.12.1.6 City
 - 5.12.1.7 State
 - 5.12.1.8 County of Primary Service Address
 - 5.12.1.9 Identify whether the practitioner is an employee, a direct contractor, or through which subcontract
- 5.12.2 Network Facilities List
- 5.12.1.2 Facility Name
 - 5.12.1.3 Facility Street Address
 - 5.12.1.4 City
 - 5.12.1.5 State
 - 5.12.1.6 Tax Identification Number

6. CLAIMS PROCESSING

- 6.1 What was your average claims processing time (amount of time from claim received to claim paid) during the last year?

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7. MEMBER SERVICES



- 7.1 What were your average speed of answer and average telephone abandonment rate at your customer call center last year?
- 7.2 Do you conduct member satisfaction surveys? If yes, provide a sample of your survey instrument and the most recent results.
- 7.3 Describe your grievance procedures for members.
- 7.4 Can members access provider lists via your website?
- 7.5 Do you have a broken appointment policy? If yes, please describe.
- 7.6 What other member services are available through your website?
- 7.7 What other member services could you provide that haven't already been addressed?

8. MEDICAL MANAGEMENT

- 8.1 Provide a copy of your Quality Improvement Plan.
- 8.2 What criteria will you use to determine medical necessity for covered services?
- 8.3 Describe your inpatient, concurrent, and retrospective review processes.
- 8.4 Describe the process for authorizing services which are not available in the network or which are required due to an emergency.
- 8.5 Describe your outpatient authorization process.
- 8.6 Do you have a program to work with clients to manage psychotropic drug utilization? If yes, please describe.
- 8.7 Describe your discharge planning process.
- 8.8 Describe the process for coordinating care with the members' physical health plans.
- 8.9 Describe how referral and crisis services will be provided 24 hours a day, seven days a week.

9. REPORTS

Describe the standard reports you typically provide to other clients.



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10. KEY PERSONNEL



- 10.1 Describe the account management structure you are proposing to use for HCGA. For this account management team please provide the following:
- 10.1.1 Name, title, and office location of each team member
 - 10.1.2 Biography
 - 10.1.3 Roles and responsibilities
- 10.2 What are the minimum staff qualifications for your clinical staff positions?

11. IMPLEMENTATION WORKPLAN

- 11.1 Provide a detailed project implementation workplan that illustrates, in table form, a calendar of complete dates of each activity, assuming that contract award is made by **November 1, 2006**.
- Include all key activities and indicate the person on your team who would be responsible for each activity. Indicate on the timetable if there are any critical dates which you believe must be met in order to keep the implementation on schedule.
- 11.2 What specific data and information do you need from HCGA for an effective implementation?



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|  | Exhibit B - Firm's References | |  701 East Jefferson, MD 5700 Phoenix, Arizona 85034 |
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1. References should be verifiable and should be able to comment on the firm's related experience. The Offeror should submit a minimum of three (3) similar size and scope professional references for organizations your company has provided services. Each reference should provide at least the following information:
 - 1.1 Name, address and telephone number of Contracting Agency or Company;
 - 1.2 Contact Person who may be contacted for verification of all information submitted;
 - 1.3 Location of Services;
 - 1.4 Name of all key personnel and sub-contractors used;
 - 1.5 Start and completion date of work performed, and
 - 1.6 Detailed written narrative of the specific services performed.

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|  | Exhibit C - Offeror's Checklist | |  701 East Jefferson, MD 5700 Phoenix, Arizona 85034 |
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Note to Prospective Offerors: This Exhibit has been added to this RFP as a convenience to Offerors. It is believed to be a complete listing of all submission requirements pursuant to this RFP. However, if a requirement is stated anywhere in the RFP text, yet does not appear in the Offeror's Checklist, the text statement takes precedence over the omission of that requirement in the Offeror's Checklist. **Place checkmarks to the left of each item and provide your page number to the right.**

| Requirement # | Description: | RFP Page | Offeror's Page # |
|---------------|--|-----------|------------------|
| 1 | Offeror's checklist completed (i.e., page numbers entered in the right-hand column of this table.) | This Page | |
| 2 | Offer and Acceptance page completed | Page 3 | |
| 3 | Pricing Schedule | Page 14 | |
| 4 | Copies of proposal submitted as one (1) marked "Original" and four (4) copies | Page 24 | |
| 5 | Statement of intent to provide Certificate(s) of Insurance | Page 25 | |
| 6 | Questionnaire (Exhibit A) | Page 46 | |

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|  | Certificate of Insurance | |  |
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Prior to commencing services under this contract, the contractor must furnish the state certification from insurer(s) for coverages in the minimum amounts as stated below. The coverages shall be maintained in full force and effect during the term of this contract and shall not serve to limit any liabilities or any other contractor obligations.

| | | |
|--|------------------------|--------------------------------------|
| Name and Address of Insurance Agency: | Company Letter: | Companies Affording Coverage: |
| | A | |
| | B | |
| Name and Address of Insured: | C | |
| | D | |

| LIMITS OF LIABILITY MINIMUM - EACH OCCURRENCE | | COMPANY LETTER | TYPE OF INSURANCE | POLICY NUMBER | DATE POLICY EXPIRES |
|---|--|----------------|--|---------------|---------------------|
| Bodily Injury Per Person Each Occurrence Property Damage OR Bodily Injury and Property Damage Combined | | | Comprehensive General Liability Form Premises Operations Contractual Independent contractors Products/Completed Operations Hazard Personal Injury Broad Form Property Damage Explosion & Collapse (If Applicable) Underground Hazard (If Applicable) | | |
| Same as Above | | | Comprehensive Auto Liability Including Non-Owned (If Applicable) | | |
| Necessary if underlying is not above minimum | | | Umbrella Liability | | |
| Statutory Limits | | | Workmen's Compensation and Employer's Liability | | |
| | | | Other | | |



State of Arizona and the Department named above are added as additional insured as required by statute, contract, purchase order, or otherwise requested. It is agreed that any insurance available to the named insured shall be primary of other sources that may be available.

It is further agreed that no policy shall expire, be canceled or materially changed to affect the coverage available to the state without thirty (30) days written notice to the State. This Certificate is not valid unless countersigned by an authorized representative of the insurance company.

Name and Address of Certificate Holder:

Date Issued: _____

Authorized Representative


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|  | HIPAA Business Associate Addendum | |  701 East Jefferson, MD 5700 Phoenix, Arizona 85034 |
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This Addendum is made part of this Contract between the Arizona Health Care Cost Containment System ("AHCCCS") and the Contractor, referred to as "Business Associate" in this addendum.

AHCCCS and Business Associate agree that this Contract shall comply with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "CFR"). In the event of conflicting terms or conditions, this Addendum shall supersede the Contract.


1. **Definitions.** Capitalized terms not otherwise defined in the Contract shall have the meanings given to them in Title 45, Parts 160 and 164 of the CFR and are incorporated herein by reference.
2. **Use and Disclosure of Protected Health Information.** Business Associate shall use and/or disclose Protected Health Information ("PHI") only to the extent necessary to satisfy Business Associate's obligations under the Contract.
3. **Prohibition on Unauthorized Use or Disclosure of PHI.** Business Associate shall not use or disclose any PHI received from or on behalf of AHCCCS, except as permitted or required by the Contract, as required by law or as otherwise authorized in writing by AHCCCS. Business Associate shall comply with:
 - (a) Title 45, Part 164 of the CFR;
 - (b) State laws, rules and regulations applicable to PHI not preempted pursuant to Title 45, Part 160, Subpart B of the CFR or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and
 - (c) AHCCCS's health information privacy and security policies and procedures.
4. **Business Associate's Operations.** Business Associate may use PHI it creates or receives for or from AHCCCS only to the extent necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities. Business Associate may disclose such PHI as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities only if:
 - (a) The disclosure is required by law; or



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- (b) Business Associate obtains reasonable assurance, evidenced by written contract, from any person or organization to which Business Associate shall disclose such PHI that such person or organization shall:
- (i) Hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the person or organization or as required by law; and
 - (ii) Notify Business Associate (who shall in turn promptly notify AHCCCS) of any instance of which the person or organization becomes aware in which the confidentiality of such PHI was breached.
5. Data Aggregation Services. Business Associate may use PHI to provide Data Aggregation Services related to AHCCCS's Health Care Operations.
6. PHI Safeguards. Business Associate shall develop, implement, maintain and use appropriate administrative, technical and physical safeguards to prevent the improper use or disclosure of any PHI received from or on behalf of AHCCCS.
7. Electronic Health Information Security and Integrity. Business Associate shall develop, implement, maintain and use appropriate administrative, technical and physical security measures in compliance with Section 1173(d) of the Social Security Act, Title 42, Section 1320d-2(d) of the United States Code and Title 45, Part 142 of the CFR to preserve the integrity and confidentiality of all electronically maintained or transmitted Health Information received from or on behalf of AHCCCS pertaining to an individual. Business Associate shall document and keep these security measures current.
8. Protection of Exchanged Information in Electronic Transactions. If Business Associate conducts any Standard Transaction for or on behalf of AHCCCS, Business Associate shall comply, and shall require any subcontractor or agent conducting such Standard Transaction to comply, with each applicable requirement of Title 45, Part 162 of the CFR. Business Associate shall not enter into or permit its subcontractors or agents to enter into any Trading Partner Contract in connection with the conduct of Standard Transactions for or on behalf of AHCCCS that:
- (a) changes the definition, Health Information condition or use of a Health Information element or segment in a Standard;
 - (b) adds any Health Information elements or segments to the maximum defined Health Information set;
 - (c) uses any code or Health Information elements that are either marked "not used" in the Standard's Implementation Specification or are not in the Standard's Implementation Specification(s); or
 - (d) changes the meaning or intent of the Standard's Implementation Specification(s).
9. Subcontractors and Agents. Business Associate shall require each of its subcontractors or agents to whom Business Associate may provide PHI received from, or created or received by Business Associate on behalf of AHCCCS to agree to written contractual provisions that impose at least the same obligations to protect such PHI as are imposed on Business Associate by the Contract.



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10. Access to PHI. Business Associate shall provide access, at the request of AHCCCS, to PHI in a Designated Record Set, to AHCCCS or, as directed by AHCCCS, to an individual to meet the requirements under Title 45, Part 164, Subpart E, Section 164.524 of the CFR and applicable state law. Business Associate shall provide access in the time and manner set forth in AHCCCS's health information privacy and security policies and procedures.
11. Amending PHI. Business Associate shall make any amendment(s) to PHI in a Designated Record Set that AHCCCS directs or agrees to pursuant to Title 45, Part 164, Subpart E, Section 164.526 of the CFR at the request of AHCCCS or an Individual, and in the time and manner set forth in AHCCCS's health information privacy and security policies and procedures.
12. Accounting of Disclosures of PHI.
 - (a) Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for AHCCCS to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with Title 45, Part 164, Subpart E, Section 164.528 of the CFR.
 - (b) Business Associate agrees to provide AHCCCS or an individual, in the time and manner set forth in AHCCCS's health information privacy and security policies and procedures, information collected in accordance with Section 11(a) above, to permit AHCCCS to respond to a request by an individual for an accounting of disclosures of PHI in accordance with Title 45, Part 164, Subpart E, Section 164.528 of the CFR.
13. Access to Books and Records. Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from or on behalf of AHCCCS available to AHCCCS and to DHHS or its designee for the purpose of determining AHCCCS's compliance with the Privacy Rule.
14. Reporting. Business Associate shall report to AHCCCS any use or disclosure of PHI not authorized by the Contract, by law, or in writing by AHCCCS. Business Associate shall make the report to AHCCCS's Privacy Official not less than 24 hours after Business Associate learns of such unauthorized use or disclosure. Business Associate's report shall at least:
 - (a) identify the nature of the unauthorized use or disclosure;
 - (b) identify the PHI used or disclosed;
 - (c) identify who made the unauthorized use or received the unauthorized disclosure;
 - (d) identify what Business Associate has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure;
 - (e) identify what corrective action Business Associate has taken or shall take to prevent future similar unauthorized use or disclosure; and
 - (f) provide such other information, including a written report, as reasonably requested by AHCCCS's Privacy Official.



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15. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of the Contract.
16. Termination for Cause. Upon AHCCCS's knowledge of a material breach by Business Associate of the terms of this Addendum, AHCCCS shall:
- (a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate if Business Associate does not cure the breach or end the violation within the time specified by AHCCCS.
 - (b) Immediately terminate the Contract if Business Associate has breached a material term of the Contract and cure is not possible.
 - (c) If neither termination nor cure is feasible, AHCCCS shall report the violation to DHHS.
17. Return or Destruction of Health Information.
- (a) Except as provided in Section 17(b) below, upon termination, cancellation, expiration or other conclusion of the Contract, Business Associate shall return to AHCCCS or destroy all PHI received from AHCCCS, or created or received by Business Associate on behalf of AHCCCS. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
 - (b) In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to AHCCCS notification of the conditions that make return or destruction not feasible. Upon verification by AHCCCS that the return or destruction of PHI is not feasible, Business Associate shall extend the protections of the Contract to such PHI and limit further uses and disclosure of PHI to those purposes that make the return or destruction not feasible, for so long as Business Associate maintains such PHI.
18. Automatic Amendment. Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, the Contract shall automatically amend such that the obligations imposed on Business Associate as a Business Associate remain in compliance with such regulations.

End of Solicitation YH07-0023 Document